

Memorandum of Understanding between Care Quality Commission and HM Courts & Tribunals Service regrading expedited appeals to the First-tier Tribunal (Care Standards)

Aim

The aim of the Memorandum of Understanding is to establish an expedited appeals process for the following decisions:

- all orders granted by justices of the peace pursuant to applications made by Care Quality Commission under Section 20 of the Care Standards Act 2000 and all orders for the urgent cancellation of registration made pursuant to Section 30 of the Health and Social Care Act 2008; and
- an urgent decision made under Section 31 of the Health and Social Care Act 2008.

Objective

To facilitate expeditious disposal of these appeals, minimising the impact on the provider's/manager's livelihood and on service users and their relatives.

Process

The First-tier Tribunal (Care Standards) will handle appeals in accordance with the following process. All reference to days means working days.

- The First-tier Tribunal copies any appeal to the respondent on receipt in the First-tier Tribunal office.
- The Care Quality Commission responds to the appeal within three days of receipt of the appeal.
- The First-tier Tribunal hears the appeal within 10 days of receipt of the response.
- The First-tier Tribunal must give three days notice of the date the hearing [hearing to be fixed when appeal received or as soon after as possible].
- The First-tier Tribunal issues its decision within three days of the conclusion of the hearing.

Where an appeal is received from the same provider against the ordinary cancellation procedures as well as an appeal against the urgent procedures, the ordinary procedures appeal will be handled in accordance with The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008. If the urgent appeal procedures appeal is dismissed, the ordinary procedures appeal may be struck out as 'having no reasonable prospect of success'.

Where the tribunal judge considers it necessary, he may require an urgent telephone conference with both parties prior to the substantive hearing. If such a conference is

required, the directions issued following discussion with both parties will take account of the need to hear the appeal within the 10 days of receipt of the response.

Wherever possible, the hearing will be held in the vicinity of the applicant's home location. However, due to the need to arrange hearings at very short notice, the tribunal may direct where the hearing is held as it sees fit.

Paper hearings will usually be heard at First-tier Tribunal premises in Darlington or Central London but may be heard at any HM Courts & Tribunals Service venue.

Agreement

HM Courts & Tribunals Service

Kevin Sadler, Director of Civil Family and Tribunals

Signed

Date: 23/08/10

Care Quality Commission

Cynthia Bower, Chief Executive

Signed

Date: 06/09/10